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| 10/090,685 | 03/05/2002 | Alfred Thomas | 2100/24 | 8496 |
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| Michael H. Baniak BANIAK PINE & GANNON 150 N. Wacker Drive, Suite 1200 Chicago, IL 60201 | | | MENDIRATTA, VISHU K | |
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/090,685
Filing Date: March 05, 2002
Appellant(s): THOMAS ET AL.

MAILED
SEP 05 2006
Group 3700

Michael H. baniak
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/8/06 appealing from the Office action
mailed 8/1/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|-----------|-----------|--------|
| 6,702,671 | Tarantino | 3-2004 |
| 5,401,024 | Simunek | 3-1995 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 25-48,50-52rejected under 35 U.S.C. 102(e) as being anticipate by Tarantino (6702671).

Tarantino teaches a game display (1920), an operating system (Fig.5), processor (103), memory (605), video section (621), pay table (abstract), wagering input device (0 bet per line button), payout device (collect button), player selecting game element locations (13:53-60) less than all locations, each location capable of displaying reel like configuration with plurality of indicia (dice faces), determining payout on the basis of winning condition and matching number of locations (11:44-55), paying increasing award units (11:25-65), and a hierarchy of symbols, matching subsets of indicia (4:1-5) are also well known in the slot machine industry.

Claims 25-48,50-52rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Simunek (5401024).

Simunek teaches a game display (20), an operating system (Fig.1), processor (16), memory (14), video section (18), pay table (2:52-54), wagering input device (bet1 button), payout device (win button), player selecting game element locations (3:46-47) less than all locations, each location capable of displaying reel like configuration with plurality of indicia (3:1-6), determining payout on the basis of winning condition and matching number of locations (4:1-34), paying increasing award units (2:55-64), a hierarchy of symbols (4:8-15), matching subsets of indicia (4:1-5) that is also well known in the slot machine industry.

Applicant might argue that all selected locations do not display reel action due to random selection of locations by the machine immediately after a player has made selection. Examiner takes the position that due to the fact that the machine is capable of selecting randomly “some or all” locations (3:52) indicates at possibility of selecting “all” spots by the machine. In such case all player-selected locations will turn into reel like locations displaying any one of all symbols on the reel.

One of ordinary skill in art at the time the invention was made would have suggested spinning all player-selected locations simplifying the game.

Claims 37-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Simunek in view of Tarantino (6702671).

Simunek teaches all limitations except that it does not clearly express a spatial arrangement of winning symbols.

Tarantino teaches a spatial arrangement of vertical, horizontal and diagonal as winning conditions. Winning conditions are determined by gaming institutions and payouts are determined according to their revenue situations (Simunek 4:23-26). In order to attract players gaming houses present various winning conditions/combinations while also keeping the game revenue in focus. Slot machine are well known to pay for matching horizontal lines. One of ordinary skill in art at the time the invention was made would have suggested various conditions and combinations of matching symbols and arrangements to attract players and to keep the game revenue flowing.

Claim 44-46 rejected under 35 U.S.C. 103(a) as being unpatentable over Simunek in view of Tarantino (6702671).

Simunek teaches all limitations except that it does not teach increasing wager per increasing bet locations.

Tarantino teaches allowing players to select a larger number of locations for a larger betting amount (9:40-55). A larger selection is related to a larger reward (13:1-5). In order to make the game interesting, it would have been obvious to increase the award for a larger selection of locations.

One of ordinary skill in art at the time the invention was made would have suggested increasing award for larger selections to make the game attractive.

(10) Response to Argument

On page 6, paragraph A1, the applicant argues that Tatantino does not disclose a wagering input device “independent of” a selection input. **Arguments are irrelevant/not persuasive.**

None of applicant's claims carry the limitations “independent of”.

On page 6, paragraph A2, the applicant argues that Tarantino does not disclose selecting multiple locations or less than all locations. **Arguments are not persuasive.** Tarantino clearly indicates selecting one, two or more columns according to the size of betting. The examiner takes the position that selecting each column is interpreted as selecting a location, and ability to select one, two or three columns can be interpreted as selecting less than 9 columns available in Fig.6. Here a column is being interpreted as a location.

On page 8, paragraph B1, the applicant argues that the Simunek does not teach game elements being picked in each instant. **Arguments are not persuasive.**

Examiner takes the position that when the machine picks locations, it is entirely possible that all player picked locations will be activated. The examiner notices that the claims do not limit the activation of "only those locations selected by a player and no other location". In other words applicant's arguments are outside claimed limitations.

On page 9, paragraph C, applicant's arguments are moot. There is record of independent claims 25,29,39,47 and 50 rejected over Simunek in view of Tarantino.

In responding to applicant's arguments on Page 10, paragraph D, see final rejection dated 8/1/05.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Vishu K. Mendiratta



8/28/06

Conferees:

Kim Eugene (SPE)

Stephen Blau (Primary Examiner)

